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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
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09/290,006 04/11/99 WANKER

W 001

EXAMINER

TM02/0718

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ART UNIT

PAPER NUMBER

2172  
DATE MAILED:

07/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/290,006

Applicant(s)

WANKER, WILLIAM PAUL

Examiner

Tam V Nguyen

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection. The added of new claims 14-35 have been reviewed and discussed in the following rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-35 rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobs (US 5550746) in view of Blinn et al. (US 5999914).

Re claim 1, Jacobs discloses receiving information related to a potential consumer purchase, (Col. 8, lines 20-36); receiving a plurality of merchant information data for a plurality of merchants capable of completing the potential consumer

purchase, the merchant data for a merchant organized into a plurality of categories, (Col. 7, lines 35-43, Col. 8, lines 24-36, and Col. 16, lines 39-53); receiving a set of weighting factors, the weighting factors corresponding to the categories of merchant information data, (Col. 7, lines 35-43); calculating a respective merchant data weight result based on the weighting factor as applied to the merchant data, (Col. 10, lines 33-41 and Col. 19, lines 22-43);

Jacobs fails to show ranking merchants based on the aggregated of the weighting factors for a given merchant to comparison to the aggregate of weighting factors.

Blinn et al. teaches ranking merchants based on the aggregated of the weighting factors for a given merchant to comparison to the aggregate of weighting factors, (Col. 2, lines 38-Col. 3, lines 8). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jacobs by including a ranking merchants based on the aggregated of the weighting factors for a given merchant to comparison to the aggregate of weighting factors, as taught by Blinn et al., so it allows promotional advertising to be selectively present to the consumer. The promotional advertising will be presented to the consumer only if the consumer and the consumer's order are eligible for the promotion, (Col. 2, lines 38-Col. 3, lines 8).

Re claim 2, Jacobs further discloses requesting information from a consumer relating to a potential consumer purchase, (Col. 12, lines 49-61).

Re claim 3, Jacobs further discloses providing the ranking to the consumer in response to the consumer's response to the request for information relating to a potential consumer purchase, (Col. 20, lines 4-14).

Re claim 4, Jacobs further discloses below a specified threshold excluding a merchant from the ranking when the merchant receives an aggregate score, (Col. 19, lines 61 – Col. 20, lines 3).

Re claim 5, Jacobs further discloses requesting weighting factor information from a consumer, (col. 18, lines 52 – Col. 19, lines 7); and using the consumer entered weighting factor information in the calculation of the merchant data weight result, (Col. 19, lines 22-33)

Re claim 6, Jacobs further discloses wherein the weighting factors sum to predetermined values, (Col. 17, lines 34-62 and see fig. 18).

Re claim 7, Jacobs further discloses wherein weighting factors are balanced such that the weighting factors sum to a predetermined value, (Col. 17, lines 34-62 and see fig. 18).

Re claim 8, Jacobs further discloses providing a rating based on the relative difference in merchant aggregate scores, (Col. 9, lines 54-63, Col. 13, lines 40-50, and Col. 15, lines 12-220).

Re claim 9, Jacobs further discloses providing a ranking to a consumer in response to the consumer's entering a product query, (Col. 19, lines 61-Col. 20, lines 3).

Re claim 10, Jacobs further discloses means for receiving a search query for a product, (Col. 8, lines 9-19); means for retrieving from a database information on merchants offering to sell the product specified in the search query, (Col. 7, lines 56 – Col. 8, lines 6); means for retrieving from a database comparison information relating to the specified product and the merchants offering the specified product, (Col. 6, lines 54-66); means for applying screening factors to the retrieved merchant and product information to remove those merchants from the ranking with correspond to the screening criteria, (Col. 7, lines 33-51); means for calculating a merchant aggregate value from the application of the weighting factors, (Col. 10, lines 33-41 and Col. 19, lines 22-43); means for generating a ranking the merchants based on the merchant aggregate value, (Col. 19, lines 60 – Col. 20, lines 3); and means for providing the ranking to a consumer, (Col. 20, lines 4-14).

Re claim 11, Jacobs further discloses means for presenting the weighting factors to the consumer, (Col. 16, lines 22-38); means for providing the consumer with the ability to specify weights associated with items of merchant and product information, (Col. 15, lines 45-59); and means for using the weights in generating the ranking of merchants, (Col. 20, lines 4-14).

Re claim 12, Jacobs further discloses means for calculating a rating of the merchant's offerings of the specified product, (Col. 10, lines 33-41 and Col. 19, lines 22-43); and means for displaying the rating of the merchant's offering, (Col. 9, lines 54-63, Col. 13, lines 40-50, and Col. 15, lines 12-22).

Re claim 13, Jacobs further discloses wherein the rating is based on the relative difference between the aggregate score of different merchants, (Col. 9, lines 54-63, Col. 13, lines 40-50, and Col. 15, lines 12-22).

Re claim 14, a method of ranking prospective merchant in an online comparison system, comprising the steps of: receiving information relating to a user specific product, (Col. 8, lines 43-68); retrieving a list of merchants from a database, wherein the list of merchants includes merchants offering the user specified product, (Col. 14, lines 63-Col. 5, lines 64, Col. 18, lines 34-Col. 19, lines 67, Col. 1, lines 13-47, and Col. 9, lines 18-33), and ranking said list of merchants carrying the user specified product

based on the application of the weighting factors to the merchant specific information, (Col. 2, lines 38-63).

Blinn et al. fails to show applying weighting factors to said merchant specific information.

Jacobs teaches applying weighting factors to said merchant specific information, (Col. 19, lines 22-Col. 20, lines 63). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Blinn et al. by applying weighting factors to said merchant specific information, as taught by Jacobs, so that the consumer can view the merchant is offering for the good or service, delivery and performance by looking at the weighting factors, (Col. 14, lines 6-Col. 15, lines 60).

Re claim 15, Jacobs further discloses, the method of claim 4, wherein the weighting factors are chosen by the user from a preset grouping of weighting factors, (Col. 19, lines 22-Col. 20, lines 63).

Re claim 16, Jacobs further discloses, the method of claim 14, wherein the weighting factors received from the user, (Col. 19, lines 22-Col. 20, lines 63).

Re claim 17, Blinn further discloses the method of claim 14, wherein the merchant information includes information relating to the status of the user specified information in the inventory of the merchant, and wherein merchants with the user



specified product in inventory are given a higher ranking according to the weight factor, (Col. 2, lines 38-63).

Re claim 18, Blinn further discloses the method of claim 14, wherein the merchant information includes information relating to applicable shipping charges, further comprising the step of calculating the applicable shipping charge, wherein merchants with lower applicable shipping charges are given a higher ranking according to the weighting factors, (Col. 2, lines 38-63 and Col. 12, lines 11-53 and fig. 3).

Re claim 19, Blinn further discloses the method of claim 14, further comprising the steps of receiving information relating to the destination the user specified product would be shipped to, wherein the merchant information includes information relating to the applicable sales tax, (Col. 12, lines 11-43 and fig. 3); calculating the applicable sales tax, (Col. 12, lines 11-43 and fig. 3); wherein merchants with lower applicable sales tax are given a higher ranking according to the weighting factor, (col. 14, lines 64-Col. 16, lines 64).

Blinn further discloses the method of claim

Re claim 20, Blinn further discloses the method of claim 14, further comprising the step of eliminating those merchants from the ranking where the merchant specific information is incomplete for that merchant, (Col. 2, lines 38-63).

Re claim 21, Blinn further discloses the method of claim 20, wherein the elimination occurs only for merchants whose merchant data is incomplete as compared to a predefined screening criteria, (Col. 24, lines 18-Col. 26, lines 63).

Re claim 22, Blinn further discloses the method of claim 21, wherein the predefined screening criteria is received from the user, (Col. 29, lines 19-Col. 26, lines 63).

Re claim 23, Blinn further discloses the method of claim 14, further comprising the step of excluding from the ranking comparison information items not common to all merchants in the ranking, (Col. 2, lines 5-65).

Re claim 24, Blinn further discloses the method of claim 14, further comprising the step of: multiplying comparison information of the merchant specific information by a weighting factor to get a weighted comparison value, (Col. 18, lines 34-Col. 19, lines 67 and Col. 22, lines 51-65); summing the weighted data values to get an aggregate score for the merchant corresponding to the merchant specific information, (Col. 16, lines 1-62); for each merchant in the ranking repeating the steps of multiplying to get a weighted comparison value and the step of summing to get an aggregate value to get an aggregate values, (Col. 26, lines 1-26); and ranking the merchants based on the aggregate values corresponding to each merchant, (col. 28, lines 54-Col. 29, lines 67 and Col. 37, lines 36-67).

Re claim 25, Jacobs further discloses the method of claim 24, wherein the weighting factors are received from the user, (Col. 19, lines 22-Col. 20, lines 63).

Re claim 26, Blinn further discloses the method of claim 24, wherein at least two different weighting factors are used, a first weighting factor applied to at least one item of comparison information from the merchant specific information, and a second weighting factor applied to at least one item of comparison form the merchant specific information, the first and second weighting factors being applied to different items of comparison information of the merchant specific information, (Col. 18, lines 34-Col. 19, lines 67, Col. 22, lines 51-65, and Col. 26, lines 1-62).

Re claim 27, Blinn further discloses the method of claim 14, further comprising the step of: presenting the user with a list of merchant information categories, (Col. 1, lines 7-46); receiving user selected merchant information categories, (Col. 1, lines 7-46) and ranking merchants based upon the selected information categories, (Col. 2, lines 38-63).

Re claim 28, Blinn further discloses the method of claim 24, further comprising the step of: presenting the user with a list of merchant information categories, Col. 1, lines 7-46 and see abstract); receiving user selected merchant information categories,

(Col. 1, lines 49-Col. 2, lines 63); and ranking merchants based upon the selected information categories, (Col. 2, lines 38-63 and see abstract).

Re claim 29, Blinn further discloses the method of claim 14, wherein the merchant specific information includes payment options available for the corresponding merchant, and wherein merchants with a user specified preferred payment option are given higher ranking according to the weight factors, (Col. 14, lines 63-Col. 16, lines 63).

Re claim 30, Blinn further discloses the method of claim 30, further comprising the steps of: receiving category weighting factors from the user, wherein category weighting factors are applied to all comparison information corresponding to the category in the merchant specific information, (Col. 9, lines 18-33, Col. 1, lines 13-47, and Col. 18, lines 34-Col. 19, lines 67); and ranking merchants according to the received category weighting factors, (Col. 2, lines 38-63).

Re claim 31, Blinn further discloses the method of claim 14, wherein the merchant specific information includes security information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the security information, (Col. 14, lines 63-Col. 15, lines 64).

Re claim 32 Blinn further discloses the method of claim 14, wherein the merchant specific information includes social responsibility information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the social responsibility information, (Col. 14, lines 63-Col. 15, lines 64).

Re claim 33, Blinn further discloses the method of claim 14, wherein the merchant specific information includes financial information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the financial information, (Col. 14, lines 63-Col. 15, lines 64).

Re claim 34, Blinn further discloses the method of claim 14, wherein the merchant specific information includes time in business information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the time in business information, (Col. 14, lines 63-Col. 15, lines 63).

Re claim 35, Blinn further discloses the method of claim 14, wherein the merchant specific information includes consumer complaint information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the consumer complaint information, (Col. 14, lines 63-Col. 15, lines 62).

### **Conclusion**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Haff et al. (US 6129669 B1) shows file transfer system using dynamically assigned ports.

Chiles et al. (US 6167567) shows technique for automatically updating software stored on a client computer in a networked client-server environment.

### **Contact Fax Information**

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or Faxed to:**

(703) 308-9051, (for formal communication intended for entry)

**Or:**

(703) 308-5399, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).

### **Contact Information**

Art Unit: 2172


**4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is (703) 305-3735. The examiner can normally be reached on Monday through Friday from 7:30 AM to 5:00 PM.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Yen Vu, can be reached on (703) 305-4393. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

TV: tv

07/12/2001

  
HOSAIN T. ALAM  
PRIMARY EXAMINER